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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.    |
|---|-------------|----------------------|---------------------|---------------------|
| 10/814,709  | 03/31/2004  | Arthur Kaesler       |                     | 7204                |
| 7590  | 06/06/2006  |                      | EXAMINER            |                     |
| ARTHUR KAESLER<br>2085 GILBRIDE RD.<br>MARTINSVILLE, NJ 08836 |             |                      |                     | FASTOVSKY, LEONID M |
|   |             | ART UNIT             | PAPER NUMBER        | 3742                |

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|   |                                 |  |  |
|---|---------------------------------|--|--|
| <b>Office Action Summary</b>  | Application No.                 | Applicant(s)   |  |
|   | 10/814,709                      | KAESLER, ARTHUR  |  |
|   | Examiner<br>Leonid M. Fastovsky | Art Unit<br>3742   |  |
| <b>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>  |                                 |  |  |
| <b>Period for Reply</b>   |                                 |  |  |
| <b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.</b>  |                                 |  |  |
| <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul> |                                 |  |  |
| <b>Status</b>   |                                 |  |  |
| 1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>21 February 2006</u> .  |                                 |  |  |
| 2a) <input type="checkbox"/> This action is <b>FINAL</b> .  |                                 | 2b) <input checked="" type="checkbox"/> This action is non-final.                        |  |
| 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.   |                                 |  |  |
| <b>Disposition of Claims</b>  |                                 |  |  |
| 4) <input checked="" type="checkbox"/> Claim(s) <u>1-12,21 and 22</u> is/are pending in the application.  |                                 |  |  |
| 4a) Of the above claim(s) _____ is/are withdrawn from consideration.  |                                 |  |  |
| 5) <input type="checkbox"/> Claim(s) _____ is/are allowed.  |                                 |  |  |
| 6) <input checked="" type="checkbox"/> Claim(s) <u>1-3,7-9,11,21 and 22</u> is/are rejected.  |                                 |  |  |
| 7) <input checked="" type="checkbox"/> Claim(s) <u>4-6,10 and 12</u> is/are objected to.  |                                 |  |  |
| 8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.  |                                 |  |  |
| <b>Application Papers</b>   |                                 |  |  |
| 9) <input type="checkbox"/> The specification is objected to by the Examiner.   |                                 |  |  |
| 10) <input checked="" type="checkbox"/> The drawing(s) filed on <u>21 March 2004</u> is/are: a) <input type="checkbox"/> accepted or b) <input checked="" type="checkbox"/> objected to by the Examiner.  |                                 |  |  |
| Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).   |                                 |  |  |
| Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  |                                 |  |  |
| 11) <input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.   |                                 |  |  |
| <b>Priority under 35 U.S.C. § 119</b>   |                                 |  |  |
| 12) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  |                                 |  |  |
| a) <input type="checkbox"/> All    b) <input type="checkbox"/> Some *    c) <input type="checkbox"/> None of:   |                                 |  |  |
| 1. <input type="checkbox"/> Certified copies of the priority documents have been received.  |                                 |  |  |
| 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.   |                                 |  |  |
| 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  |                                 |  |  |
| * See the attached detailed Office action for a list of the certified copies not received.  |                                 |  |  |
| <b>Attachment(s)</b>  |                                 |  |  |
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   |                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____. |  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  |                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____.  |                                 | 6) <input type="checkbox"/> Other: _____.  |  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because they do not show gel coat, flow coat and do not identify two foil elements in drawing 4. Applicant's reference to a provisional application 60/461025 is appreciated, but is not sufficient to overcome this objection and the Applicant must resubmit new drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The disclosure is objected to because of the following informalities: a layer 110 is called as "the wearing face" on page 4, lines 14, but in the provisional drawing 2b it is called "gel coat", and a layer 124 is called on the provisional drawing 2b as a flow coat resin.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 8 recites the limitation "the flow coat resin layer" in 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 11 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziver (3,495,328) in view of Dyer.

Ziver discloses an electrically powered panel-mat 10 comprising a heating element 12 comprising at least two electrically resistive foils 13 and 14 made from a nichrome material with a thickness of 0.005 inch (col. 3, lines 1-40), at least three protective layers, specifically a first layer – a top layer 11 made of glass-ceramic material adjacent to the heating element (col. 3, lines 1-5), ceramic is fiber, therefore the glass-ceramic material is inherently chopped fiberglass, a second layer- alumina layer on the surface 11 of the panel 10, and a third layer is a sheet of a silicon rubber covering the heating element 12 (col. 4, lines 1-20).

It would have been obvious to one having ordinary skill in the art to modify Ziver's invention to add a second chopped strand layer in order to improve electrical insulation characteristics of the panel-mat (col. 3, lines 5-17).

As for claim 3, and the limitation of the nichrome material at an 80/20 ratio, it is deemed that the material used for the heating element would be chosen by the user having a desire result in mind. Therefore it would have been obvious to make the heating element made of nichrome at an 80/20 ratio as to obtain the result wanted by the user.

As for claim 9, it would have been obvious to one having ordinary skill in the art to modify Ziver's invention to make a thickness of his mat approximately 0.5 inch because he discloses the same thickness of the heating element and capable of so perform.

As for claim 21, it would have been obvious to one having ordinary skill in the art to modify Ziver's invention to make his heating element from cupro-nickel as an alternative functional equivalent of his heating element made of nichrome.

As for claim 22, it would have been obvious to one having ordinary skill in the art to modify Ziver's invention to make at least two pockets in his chopped layer 11 in order to protect his heating elements from potential electric shock.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ziver in view of Harrison (4,661,689).

Ziver discloses substantially the claimed invention, but does not disclose a thermostat. Harrison discloses a heated pad-mat 20 comprising a heating element 40 and a thermostat with a cord 50 (col. 5, lines 45-62).

It would have been obvious to one having ordinary skill in the art to modify Ziver's invention to add a thermostat with a remote cord as taught by Harrison as a safety element to prevent overheating of the heated mat.

#### ***Allowable Subject Matter***

9. Claims 4-6, 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

10. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M. Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Leonid M Fastovsky  
Examiner  
Art Unit 3742

lmf

  
ROBIN EVANS  
SUPERVISORY PATENT EXAMINER

  
5/27/06